

Part 20 – Schedule, Enlarged Panel, Additional Page, Declaration or Standard Terms Document

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Part 20 – Schedule, Enlarged Panel, Additional Page, Declaration or Standard Terms Document

General Law

Schedule

[20-0000]

No law is applicable.

Enlarged Panel

[20-0010]

No law is applicable.

Additional Page

[20-0020]

No law is applicable.

Declaration

[20-0030]

The *Oaths Act 1867* or the applicable law of the State or country in which the declaration is made are relevant here.

Standard Terms Document

[20-0040]

Section 169 of the *Land Title Act 1994* enables Form 20 – Standard Terms Documents to be registered. A registered standard terms document will then form part of any other registered instrument if:

- (a) that instrument states that the standard terms document forms part of the instrument; and
- (b) the instrument belongs to a class identified in the standard terms document as an instrument to which the standard terms document applies (s 170 of the *Land Title Act 1994*).

Standard terms documents which are commonly registered include covenants for leases, mortgages and easements.

Registration of such covenants removes the obligation to repeat all the covenants in every similar instrument lodged. For example, a mortgagee may register a standard terms document setting out its common mortgage covenants. Then, for each mortgage that it prepares, it need only produce a Form 2 – Mortgage, which states that the covenants of the mortgage are those set out in the specified registered standard terms document.

Section 171(1) of the *Land Title Act 1994* provides that, in addition to incorporating the terms of a standard terms document, an instrument can incorporate other terms into the instrument.

Section 171(2) of the *Land Title Act 1994* provides that the other specified terms will override those in the standard terms document.

Therefore, a party may refer to covenants contained in both a standard terms document and in a Form 20 – Schedule annexed to the relevant Form. Thus, for example, a Form 2 – Mortgage may state that it is on the terms of a registered standard terms document as well as the terms contained in a schedule. The terms of the schedule will override the terms of the standard terms document in the event of any inconsistency.

An instrument may also state that it incorporates the terms of a standard terms document, subject to amendments. The amendments are then set out in a schedule. Again, the amendments in the Form 20 – Schedule will override the terms in the standard terms document so far as they relate to that instrument.

Practitioners are encouraged to prepare a standard terms document and deposit it for recording in every instance where the terms and/or conditions and/or covenants are standard for multiple instruments. This facility is not limited to mortgages only. This procedure is appropriate for instruments, regardless of whether they are all to be lodged at the same time or lodged over an extended period. Proper use of this facility will assist to contain client costs and will certainly reduce the service times after instruments are lodged for registration.

Under s 168A of the *Land Title Act 1994*, references to standard terms documents in ss 170 and 171 include a standard terms document that has been or is taken to be registered under the *Land Act 1994*.

No fees are payable for lodgement of a Form 20 – Standard Terms Document under s 169 of the *Land Title Act 1994*.

Legislation

[20-1000]

Application of the *Land Title Act 1994* to the *Water Act 2000*

Under the provisions of ss 150(1) and 151 of the *Water Act 2000*, subject to the exceptions provided in ss 150(2), 151(1) and (5) of the *Water Act 2000*, the *Land Title Act 1994* applies to the registration of an interest or dealings for a water allocation on the water allocations register.

Under s 151(3) of the *Water Act 2000* an interest or dealing mentioned in s 150 may be registered in a way mentioned in the *Land Title Act 1994* and the Registrar of Water Allocations may exercise a power or perform an obligation of the Registrar of Titles under the *Land Title Act 1994*:

- (a) as if a reference to the Registrar of Titles were a reference to the Registrar appointed under Chapter 2 Part 4 Division 6 of the *Water Act 2000*; and
- (b) as if a reference to the freehold land register were a reference to the water allocations register; and
- (c) as if a reference to freehold land or land were a reference to a water allocation; and
- (d) as if a reference to a lot were a reference to a water allocation; and
- (e) as if a reference to an indefeasible title were a reference to a title; and
- (f) with any other necessary changes.

Practice

General

[20-2000]

A Form 20 cannot be lodged on its own. It must be attached to another appropriate form.

One Form 20 can be used for any number of purposes. For example, an Enlarged Panel and a Declaration may appear on the same Form 20.

Schedule

[20-2010]

Schedules are generally used to set out provisions or covenants and conditions for instruments such as mortgages, easements or leases.

If used as a schedule, the Form 20 must repeat the relevant item number and name, eg 'Item 6 Execution', refer to the title reference in the top centre of the page and show consecutive page numbering on the top right hand corner, eg 'Page 3 of 5'.

Enlarged Panel

[20-2020]

A Form 20 – Enlarged Panel must **only** be used when there is insufficient space to contain the necessary information in a panel in a form.

Where an instrument is lodged with an execution or executions on a Form 20 and there is no apparent reason for not executing on the face of the form, the instrument will be requisitioned to seek an explanation as to why the annexure was used.

In the body of the Land Registry form, the item which is to be the subject of the enlarged panel should contain only a reference saying 'see Enlarged Panel'. For example, Item 2 of a Form 1 – Transfer, the description of the land or water allocation, may not provide sufficient space to insert all of the descriptions of the lots involved, so on the Form 1, Item 2 would be completed with 'see Enlarged Panel'. The Form 20 – Enlarged Panel would then contain the relevant panel heading of the Form 1 and set out the descriptions of the lots involved.

To assist timely registration of a document a form should not include, in the relevant item, more than 20 title references. However, in extenuating circumstances or when it is not practical, a person may apply in writing to the Registrar seeking relaxation.

A Form 20 can contain more than one enlarged panel. As is the situation for schedules, a Form 20 used for one or more enlarged panels must refer to the title reference in the top centre of the page, show consecutive page numbering in the top right hand corner and repeat the relevant item number and name.

Additional Page

[20-2030]

If a Form 20 used as a schedule or an enlarged panel exceeds one page, then a Form 20 – Additional Page is to be used.

Again, the additional page must repeat the relevant item number and name, refer to the title reference in the top centre and show consecutive page numbering on the top right hand corner.

Declaration

[20-2040]

Declarations that are required as essential evidence for an instrument should generally be set out in a Form 20 – Declaration. Declarations will be required in the following circumstances.

Form 1 – Transfer

[20-2050]

Where a mortgagee is exercising a power of sale, a Form 20 – Declaration dated on or after the date of execution of the transfer as to all relevant facts should be lodged with the transfer. The declaration must include the occurrence of the default, the continuation of the default up to and including the date of the transfer and the service of notice of default on the mortgagor (in terms of ss 84 and 347 of the *Property Law Act 1974*). A copy of any notices served on the mortgagor must be annexed to the declaration.

See part 1 – Transfer, esp ¶[1-2340] to ¶[1-2370].

Form 5A – Transmission Application by Personal Representative and Form 6 – Transmission Application for Registration as Devisee/Legatee

[20-2060]

A Form 20 – Declaration is not generally required in these cases, as all usual information is provided for in the declarations that comprise part of those Forms. However, the declarations in Form 5A or Form 6 must be completed. In some instances, there may be additional matters that need to be declared and these should comprise a further declaration in Form 20.

See part 5, 5A, 6 – Transmission Applications.

Form 14 – General Request

[20-2070]

A Form 14 – Request to Record Change of Name of a natural person will require a supporting declaration setting out the circumstances of how the name was changed with copies of documentary evidence annexed.

See part 14 – General Request.

¹Form 17 – Request for Substitute Instrument/To Dispense with Production of Instrument

[20-2080]

A Form 20 – Declaration will be required to be annexed setting out the facts and circumstances of the loss of the missing instrument, tracing receipt and disposition by all parties in possession since last delivered from the Titles Office and efforts to locate it.

See part 17 – Request for Substitute Instrument or to Dispense with Production of Instrument.

Standard Terms Document

[20-2090]

If a standard terms document is referred to in a form, then it should be referred to by its registered number.

Forms

General Guide to Completion of Forms

[20-4000]

For general requirements for completion of forms see part 59 – Forms, esp ¶[[59-2000].

Title Reference [12345201]

ENLARGED PANEL

Item 2 Lot on Plan Description	County	Parish	Title Reference
Lot 1 on RP812345	Stanley	Livingstone	12345201
Lot 5 on RP856304	Stanley	Livingstone	14235102
Lot 3 on RP804563	Stanley	Livingstone	16323051
Lot 4 on RP804563	Stanley	Livingstone	16323052
Lot 5 on RP804563	Stanley	Livingstone	16323053
Lot 7 on RP804563	Stanley	Livingstone	16323055

DECLARATION

I, George John McIntosh of 24 Glendown Street, Barsfield in the State of Queensland solemnly and sincerely declare that:

1. George Jon McIntosh is registered as the owner of the lands described as Lot 1 on RP812345 and Lot 5 on RP856304 both in the County of Stanley Parish of Livingstone contained in Title References 12345201 and 14235102 respectively.
2. George John McIntosh is registered as the owner of the lands described as Lot 3 on RP804563, Lot 4 on RP804563, Lot 5 on RP804563 and Lot 7 on RP804563 in the County of Stanley Parish of Livingstone contained in Title References 16323051, 16323052, 16323053 and 16323055 respectively.
3. I, George John McIntosh, the registered owner of the lands described in 2 above am one and the same person as George Jon McIntosh, the registered owner of the lands described in 1 above.
4. My name was mis-spelt during preparation of the transfer when I acquired the lands in 1 above.
5. My true and correct name is George John McIntosh as stated in the attached transfer by which I am disposing of my interests in all of the above lands.

AND I MAKE this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Oaths Act 1867*.

R J Spencer

.....
ROBERT JOHN SPENCER

.....
COMMISSIONER FOR DECLARATIONS #32989

.....
Witnessing Officer (signature, full name & qualification)

23/5/2007
Execution Date

G J McIntosh

.....
Transferor's Signature

¶[20-6000] deleted

Case Law

Documents

[20-7000]

In *Re Westpac Banking Corporation* [1987] 1 Qd R 300, it was decided that a registered document can contain covenants and conditions as well as other provisions which could not be classified as covenants and conditions.

The provisions of any registered document which are incorporated into another instrument, whether they be covenants and conditions or other types of provisions, will be deemed to be set out in full in that instrument.

Fees

[20-8000]

No fees are payable for the lodgement of a Form 20.

Cross References and Further Reading

[20-9000]

For further assistance in relation to preparation of declarations, refer to the relevant chapter for the Form in question, that is:

Part 1 – Transfer

Part 2 – Mortgage

Part 5, 5A, 6 – Transmission Applications

Part 7 – Lease of Freehold or Water Allocation

Part 9 – Easement

Part 13 – Amendment of Lease, Easement, Mortgage, Covenant, Profit a prendre or Building Management Statement

Part 14 – General Request

Part 17 – Request for Substitute Instrument or to Dispense with Production of Instrument

Part 23 – Settlement Notices

Notes in text

[20-9050]

Note ¹ – This numbered section is not applicable to water allocations or the Water Allocations Register.